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Practitioner's Docket No. 24-0098

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **CECIL WISEMAN**

Application No.: 10/798,250

Group No.: 1723

Filed: 3/11/2004

Examiner: unknown

For: GRAY WATER RECYCLING SYSTEM

Mail Stop Applications

Assistant Commissioner for Patents

Arlington, VA 22313-1450

EXPRESS MAIL CERTIFICATE

"Express Mail" label number EU074443045US

Date of Deposit November 11, 2005

I hereby state that the following *attached* paper(s)

PETITION TO WITHDRAW HOLDING OF ABANDONMENT OR, IN THE ALTERNATIVE,
PETITION TO REVIVE ABANDONED APPLICATION
EXHIBITS A-G

Is\are) being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. section 1.10, on the date indicated above and is addressed to the Assistant Commissioner for Patents, Alexandria, VA 22313-1450.

JEFFREY A. PROEHL

Signature of person mailing paper or fee



Attorney Docket No. 24-0098

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
In re Reissue Application of: CECIL WISEMAN)
Serial No: 10/798,250)
Filed: 3/11/2004)
For: GRAY WATER RECYCLING SYSTEM)
Examiner: (unknown))
Group Art Unit: 1723)

Mail Stop Petitions
Attention: Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION TO WITHDRAW HOLDING OF ABANDONMENT
OR, IN THE ALTERNATIVE, PETITION TO REVIVE ABANDONED
APPLICATION UNDER 37 CFR § 1.137fb)

1. The above-identified application became abandoned for the alleged failure to file a timely and complete response to the "Notice to File Missing Parts of Reissue Application" mailed on May 13, 2004, which set a two month shortened statutory period for responding to the Office Action. The date of alleged abandonment of this application was thus July 14, 2005 (without the payment of extension fees), and November 14, 2004 (if the period of response were extended to the full statutory six month period).

2. However, the Notice of Abandonment for this reissue application was not mailed to the undersigned until September 12, 2005 (see attached "Exhibit A"). This Petition is being submitted within two

months of the mailing of the Notice of Abandonment for this case.

3. In the Notice of Abandonment, it is alleged that "No reply was received", but the words "properly reply" have been underlined. However, as is apparently conceded in the Notice of Abandonment, a response was filed on September 13, 2004 (a copy of which is attached as Exhibit "B").

4. A "Notice of Incomplete Reply (Reissue)" was apparently mailed by the U.S.P.T.O. to the undersigned on October 18, 2004. A copy of this document (a copy of which is attached as Exhibit "C") was obtained from the PAIRS system when the Notice of Abandonment was received, but it is noted that the listing of items in the "File History" screen of the PAIRS system (a printout of which is attached as Exhibit "D") does not include any mention of the "Notice of Incomplete Replay (Reissue)". In any event, an inspection by the undersigned of the file wrapper for this reissue patent application in the undersigned's office does not show that this "Notice of Incomplete Reply (Reissue)" was received by the undersigned. Attached is a printout of the screens of the undersigned's computerized docketing system (as Exhibit "E") showing the fields where the date of receipt of the Notice, as well as the deadline for responding, would have been recorded if received by the undersigned's office.

5. The "Notice of Incomplete Reply (Reissue)" alleges that "The required items noted below SHOULD be filed along with any items required above", and lists two items:

- 1) Consent of assignee; and
- 2) Assignee's statement under 37 CFR 3.73(b) establishing ownership of the patent.

However, the underlying U.S. Patent (6,355,160) for this reissue patent application has not been assigned, at least to the knowledge of the

undersigned after inspection of the file and as evidence by the USPTO Assignment Database, a printout of which is attached (as Exhibit "F"), which indicates that there is no record of an assignment of this patent.

6. Thus, it is submitted that the requirement to submit the "consent of assignee" and "assignee's statement" is completely erroneous, and should not have been a requirement for the present reissue patent application, and thus the lack of a submission thereof should not have caused should not have caused the abandonment of the present reissue patent application.

7. Furthermore, the "Notice of Incomplete Reply (Reissue)" further alleges that the fee submitted was deficient by \$9.00, however, inspection of the "Notice of Fee Due" (a copy of which is attached as Exhibit "G") dated "09-14-04" states that the fee due is actually \$6.00. The Commissioner is hereby authorized to charge the Deposit Account 50-3041 in the amount of any fees due, as there seems to be some confusion in the File History as to what fees are actually still due.

8. THEREFORE, as provided in MPEP § 711.03 (c), the undersigned attorney as Representative for the Applicant believes that the above-identified application was improperly abandoned by the Office, and hereby petitions for withdrawal of abandonment and resetting the time for response, based on the foregoing facts and information:

9. Although Applicant's Representative believes this Petition to Withdraw Holding of Abandonment to be correct and appropriate, he also states that any error inadvertently made by him which resulted in abandonment of this application was unintentional.

10. In the event it is deemed that a Petition to Revive Abandoned Application under 37 CFR § 1.137(b) is required to revive this reissue

application, such petition is hereby made, and any fees required maybe charged to Deposit Account No. 50-3041.

Withdrawal of the abandonment and resetting of the period for response is respectfully requested, or in the alternative a revival of the patent application is requested.

Respectfully submitted,

LEONARD & PROEHL, Prof.L.L.C.



Date: Nov. 11, 2005

Jeffrey A. Proehl (Reg. No. 35,987)
Customer No. 40, 158
3500 South First Avenue Circle, Suite 250
Sioux Falls, SD 57105-5807
(605)339-2028 FAX (605)336-1931



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/798,250	03/11/2004	Cecil A. Wiseman	24-0098

CONFIRMATION NO. 4201
ABANDONMENT/TERMINATION
LETTER

40158
WOODS FULLER SHULTZ & SMITH P.C.
ATTN: JEFFREY A. PROEHL
P.O. BOX 5027
SIOUX FALLS, SD 57117



Date Mailed: 09/12/2005

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 05/13/2004.

- No reply was received.

If a complete reply to the notice was previously filed by applicant within the time period set forth in the notice, applicant may request for reconsideration of the holding of abandonment within 2 months from the mailing of this notice of abandonment by filing a petition to withdraw the holding of abandonment under 37 CFR 1.181(a). No petition fee is required. The petition must be accompanied by a true copy of the originally filed reply and the item (s) identified in one of the following:

1. A properly itemized date-stamped postcard receipt (see MPEP § 503);
2. If the originally filed reply included a certificate of mailing or transmission in compliance with 37 CFR 1.8(a), a copy of the certificate of mailing or transmission and a statement in compliance with 37 CFR 1.8(b) (see MPEP §§ 512); or
3. If the reply was filed via Express Mail, a submission satisfying the requirements of 37 CFR 1.10(e) including, for example, a copy of the Express Mail mailing label showing the "date-in" (see MPEP § 513).

Any petition to withdraw the holding of abandonment should be directed to OIPE.

If applicant did not previously file a complete reply within the time period set forth in the notice, applicant may file a petition to revive the application under 37 CFR 1.137.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/61.

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-

EXHIBIT

A

identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/64.

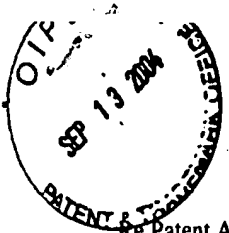
Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (571) 272-3282.

*A copy of this notice **MUST** be returned with the reply.*

A handwritten signature in black ink, appearing to be "R. R. B.", written over a horizontal line.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199, or 1-800-972-6382

PART 3 - OFFICE COPY



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Patent Application of: CECIL WISEMAN)
Serial No.: 10/798,250)
Filing/Receipt Date: 3/11/2004)
For: REISSUE OF 6,355,160)
Group Art Unit: 1723)
Attorney: Jeffrey A Proehl)



Attention: Customer Service Center
Initial Patent Examination Division
Honorable Assistant Commissioner for Patents
Alexandria, V.A. 22313-1450

NOTICE TO FILE CORRECTED APPLICATION PAPERS

In response to the Notice to File Missing Parts of Reissue Application Papers mailed May 13, 2004 regarding the above application, applicant submits herewith the following documents:

1. Filing Fee of \$385,
2. New Declaration,
3. Extra Independent Claim Fee of \$252.00,
4. Extra Claim Fee of \$117.00,
5. Missing Parts Surcharge of \$65.00
6. Petition for Extension of Time and Fee of \$210.00,
7. One Check for all above Fees of \$1,029.00; and
8. a copy of the "Notice to File Corrected Application Papers".

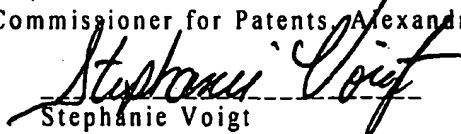
Respectfully submitted,

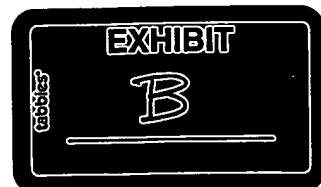
 Date: 9/13/04

Mark A Ekse (Reg. No. 30,150)
LEONARD & PROEHL, LLC
3500 South First Avenue Circle, Suite 250
Sioux Falls, SD 57105-5807
(605)339-2028 FAX (605)336-1931

Express Mail # EV 383533431 US
Date of Deposit September 13, 2004

I hereby state that the following *attached* paper(s):
is(are) being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10, on the date indicated above and is addressed to Mail Stop Missing Parts, Assistant Commissioner for Patents, Alexandria, V.A. 22313.


Stephanie Voigt



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)

Docket Number(Optional)

24-0098

In re Application of Cecil A Wiseman, et al.

Application Number

10/798,250

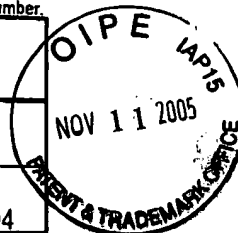
Filed

March 11, 2004

For Gray-Water Recycling System Reissue of 6,355,160

Group Art Unit

Examiner



This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and appropriate non-small-entity fee are as follows (check time period desired):

☐ One month (37 CFR 1.17(a)(1))

\$ _____

☒ Two months (37 CFR 1.17(a)(2))

\$ 420.00

☐ Three months (37 CFR 1.17(a)(3))

\$ _____

☐ Four months (37 CFR 1.17(a)(4))

\$ _____

☐ Five months (37 CFR 1.17(a)(5))

\$ _____

☒ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee amount shown above is reduced by one-half, and the resulting fee is: \$ 210.00

☒ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Commissioner has already been authorized to charge fees in this application to a Deposit Account.

☐ The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number _____
I have enclosed a duplicate copy of this sheet.

I am the ☐ assignee of record of the entire interest.

☐ applicant.

☐ attorney or agent of record.

☒ attorney or agent under 37 CFR 1.34(a).

Registration number if acting under 37 CFR 1.34(a) 50,130

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

September 13, 2004

Date


Signature

Mark A Ekse

Typed or printed name

Burden Hour Statement: This form is estimated to take 0.1 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

09/15/2004 FFAHAI2 00000024 10798250

01 FC:2252

210.00 DP



Attorney's Docket No. 24-0098

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No. 10/798,250)
First Named Applicant: CECIL WISEMAN)
Filed: 03/11/2004)
For: REISSUE OF 6,355,160)
TC/A.U.: 1723)
Examiner:)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REISSUE APPLICATION DECLARATION BY THE INVENTOR(S)

We hereby declare that:

Each inventor's residence, mailing address and citizenship are stated below next to their name.

We believe the inventors named below to be the original and first inventors of the subject matter which is described and claimed in patent number 6,355,160, granted on March 11, 2002 and for which a reissue patent is sought on the invention entitled GRAY-WATER RECYCLING SYSTEM, the specification of which was filed on March 11, 2004 as reissue application number 10/798,250, and was amended on March 11, 2004.

We have reviewed and understand the contents of the above-identified specification, including the claims as amended by any amendment referred to above.

We acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

We verily believe the original patent to be wholly or partially inoperative or invalid by reason of a defective specification or drawing. Further, the applicant believes the original patent to be partly inoperative or invalid by reason of the patentee claiming more or less than patentee had the right to claim in the patent.

The applicant acknowledges the existence of an error in the specification. Specifically, the operational definition of the term gray-water and the requirement of



filtering to process the gray-water does not adequately reflect the scope of the invention. Refer to column 5 lines 43 through 49 which reads as follows:

"The gray-water may be obtained from sources such as showers, sinks, washing machines and dish washers. The processed gray-water is generally intended to be used to supplement water used for toilets and lawn and garden care. Dedicated lines 76 may be run into the system from wells, dams, rivers or other sources of gray water to be treated by the system 12."

This was intended to indicate alternate sources and types of gray-water. In situations where the gray-water is supplied from wells, dams, rivers or other sources, the reservoir and filter may not be required as processing of the gray-water for use as generally intended may not be necessary.

All errors corrected in this reissue application arose without any deceptive intent on the part of the applicant.

Correspondence Address: Please direct all communications about the application to:

CUSTOMER NUMBER: 40,158

We hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Patentee/Applicants: Cecil A. WISEMAN

Christopher WISEMAN

Signature:

Address:

Buckett's Way
Wards River
New South Wales 2422

P.O. Box 8089
Coffs Harbour
New South Wales 2450

Citizenship:

Australia

Australia



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/798,250	03/11/2004	Cecil A. Wiseman	24-0098

40158
LEONARD & PROEHL, PROF. L.L.C.
3500 SOUTH FIRST AVENUE CIRCLE
SUITE 250
SIOUX FALLS, SD 57105



CONFIRMATION NO. 4201

FORMALITIES LETTER



OC000000014108029

Date Mailed: 10/18/2004

NOTICE OF INCOMPLETE REPLY (REISSUE)

Filing Date Granted

The U.S. Patent and Trademark Office has received your reply on 09/13/2004 to the Notice to File Missing Parts (Notice) mailed 05/13/2004 and it has been entered into the reissue application. The reply, however, does not include the following items required in the Notice.

The period of reply remains as set forth in the Notice. You may, however, obtain **EXTENSIONS OF TIME** under the provisions of 37 CFR 1.136 (a) accompanied by the appropriate fee (37 CFR 1.17(a)).

A complete reply must be timely filed to prevent **ABANDONMENT** of the above-identified application.

The required items noted below **SHOULD** be filed along with any items required above. The filing date of this reissue application will be the date of receipt of the items required above.

- Consent of assignee is missing. 37 CFR 1.172 requires that a reissue oath/declaration be accompanied by the written consent of all assignees.
- Assignee's statement under 37 CFR 3.73(b) establishing ownership of the patent is missing. 37 CFR 1.172 requires that all assignees consenting to the reissue application establish their ownership interest in the patent by filing in the reissue application a statement in accordance with 37 CFR 3.73(b).

The applicant needs to satisfy supplemental fees problems indicated below.

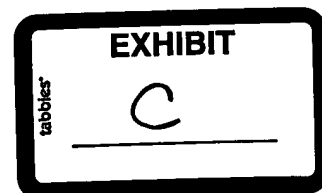
The required item(s) identified below must be timely submitted to avoid abandonment:

- Additional claim fees of \$9 as a small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is \$9 for a Small Entity

- Total additional claim fee(s) for this application is \$9
 - \$9 for 13 total claims over the higher of 20, or the amount in the original patent.



Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.



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Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY



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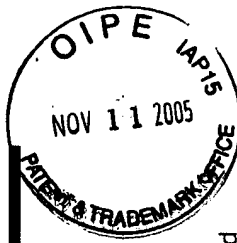
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Application Number

SUBMIT

10/798,250 Gray-water recycling system

Application Data	Transaction History	Image File Wrapper	Continuity Data	Address & Attorney/Agent
------------------	---------------------	--------------------	-----------------	--------------------------

Date	Contents Description
09-14-2004	Abandonment -- During Preexam Processing
09-13-2004	Payment of additional filing fee/Preexam
09-13-2004	An assertion that the nature of the legal entities having property rights to the patent authorizes t
09-13-2004	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic
05-13-2004	Notice Mailed--Application Incomplete--Filing Date Assigned
04-08-2004	Cleared by OIPE CSR
03-18-2004	IFW Scan & PACR Auto Security Review
03-11-2004	Initial Exam Team nn

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- If you experience technical difficulties or problems with this application, please report them via e-mail to [Elect](#)

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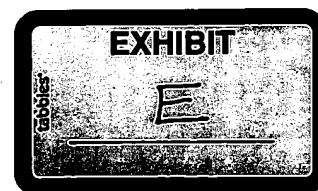
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KA NO:	CLIENT NO:	H-PH:	
NAME:	CECIL WISEMAN	W-PH:	
Date Special:	Reason Special:	Special Due	
APPLICATION TYPE:	MISC	ATTN:	
INVENTION NAME:	REISSUE OF 6,355,160	CP:	<input type="checkbox"/>
DATE OPEN FILE:	3/5/2004		
FILING DATE:			
SERIAL NO.:	10/798,250		
		SCANNED:	<input type="checkbox"/> FILE <input type="checkbox"/> SEARCH



KA NUMBER

24-0098

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FINAL	<input type="checkbox"/>							
ADVISE	<input type="checkbox"/>							

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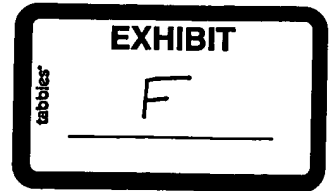
Assignments on the Web > Patent Query

Assignment Data Not Available

For Patent Number: 6355160

If you have any comments or questions concerning the data displayed, contact OPR / Assignments at 571-272-3350

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NOTICE OF FEE DUE

DATE:

09-14-04

TO:

missing part

FROM:

Office of Initial Patent Examination

SUBJECT: Fee Due

APPLICATION NUMBER

10/798,250

A fee is due for the attached document submitted to the U.S. Patent and Trademark Office for the following reason. Please check the application for the appropriate authorization to charge a deposit account. If an authorization is present, please charge the Appropriate fee. If an authorization is not present, notify the applicant of the fee deficiency.

☐ Insufficient fee by check☐ Insufficient funds in deposit amount☐ Declined credit card☐ Non-authorization for charge to deposit account☐ No fee submitted per requirement

The correct fee code:

226.5

amount

\$ 9. -

The suspended fee code: 1999

amount

\$ 3 -

Fee Due

amount

=\$ 6. -

If you have any questions, please contact Cynthia Streater at 703-306-5430 or Eleanor Kurtz 703-308-3642

Terminal Operator

F. arideh